

**STAFF REPORT
C45**

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08/17/17
PRC 7169.9
J. Holt

GENERAL LEASE – PROTECTIVE STRUCTURE USE

APPLICANT:

Robert A. Panella and Dorothy Panella, Co-Trustees of the Robert A. Panella and Dorothy Panella Family Trust Dated 8/7/81

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Mokelumne River, adjacent to 23160 N. Davis Road, near Woodbridge, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of existing bank protection.

LEASE TERM:

10 years, beginning June 8, 2017.

CONSIDERATION:

The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee agrees and acknowledges hazards associated with sea-level rise may require additional maintenance or protection strategies regarding the improvements on the Lease Premises.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

STAFF REPORT NO. C45 (CONT'D)

Public Trust and State's Best Interests Analysis:

On February 12, 1997, the Commission authorized a 20-year General Lease – Protective Structure Use for existing bank protection to Robert and Dorothy Panella, Co-Trustees ([Item C09, February 12, 1997](#)). That lease expired on June 7, 2017. The Applicant has applied for a new General Lease – Protective Structure Use, for continued use and maintenance of existing bank protection in the Mokelumne River.

The proposed lease contains the same structure as the prior lease, which consists of riprap bank protection. The bank protection will maintain the integrity of the Mokelumne River channel, which will help protect the Public Trust resources of the Mokelumne River for recreational and navigational use by the public.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, and a non-exclusive use provision. It requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon.

Climate Change Analysis:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion affect both open coastal areas and inland waterways in California. The existing structures within the lease area are located on the Mokelumne River, within a tidally-influenced region. The facilities associated with this lease area include clean quarry stone used for bank protection and erosion control.

By 2030, California's coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could result in a small increase in the Mokelumne River's inundation levels within the lease area. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts in this region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will

STAFF REPORT NO. C45 (CONT'D)

occur over a shorter period of time. This outcome is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Conversely, climate change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour decreasing bank stability and structure.

Regular maintenance, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation or dislodgement. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, Commission staff believes that the issuance of this lease will not substantially interfere with Public Trust needs at this location at this time or for the foreseeable term of the proposed lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Staff recommends that the Commission find that issuance of the proposed lease is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

STAFF REPORT NO. **C45** (CONT'D)

3. This activity involves lands that are identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based on staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Protective Structure Use to the Applicant, beginning June 8, 2017, for a term of 10 years, for the continued use and maintenance of existing bank protection, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the bank protection: the public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 7169.9

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Mokelumne River, lying adjacent to Section 16 of Township 4 North, Range 6 East, M.D.M., as shown on Official Government Township Plat approved October 7, 1865, County of San Joaquin, State of California, and more particularly described as follows:

All those lands underlying an existing bank protection structure adjacent to those parcels described in that Corporation Grant Deed recorded April 26, 1991 Document Number 91036462 in Official Records of said County.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the left bank of the Mokelumne River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 07/19/2017 by the California State Lands Commission Boundary Unit.



NO SCALE

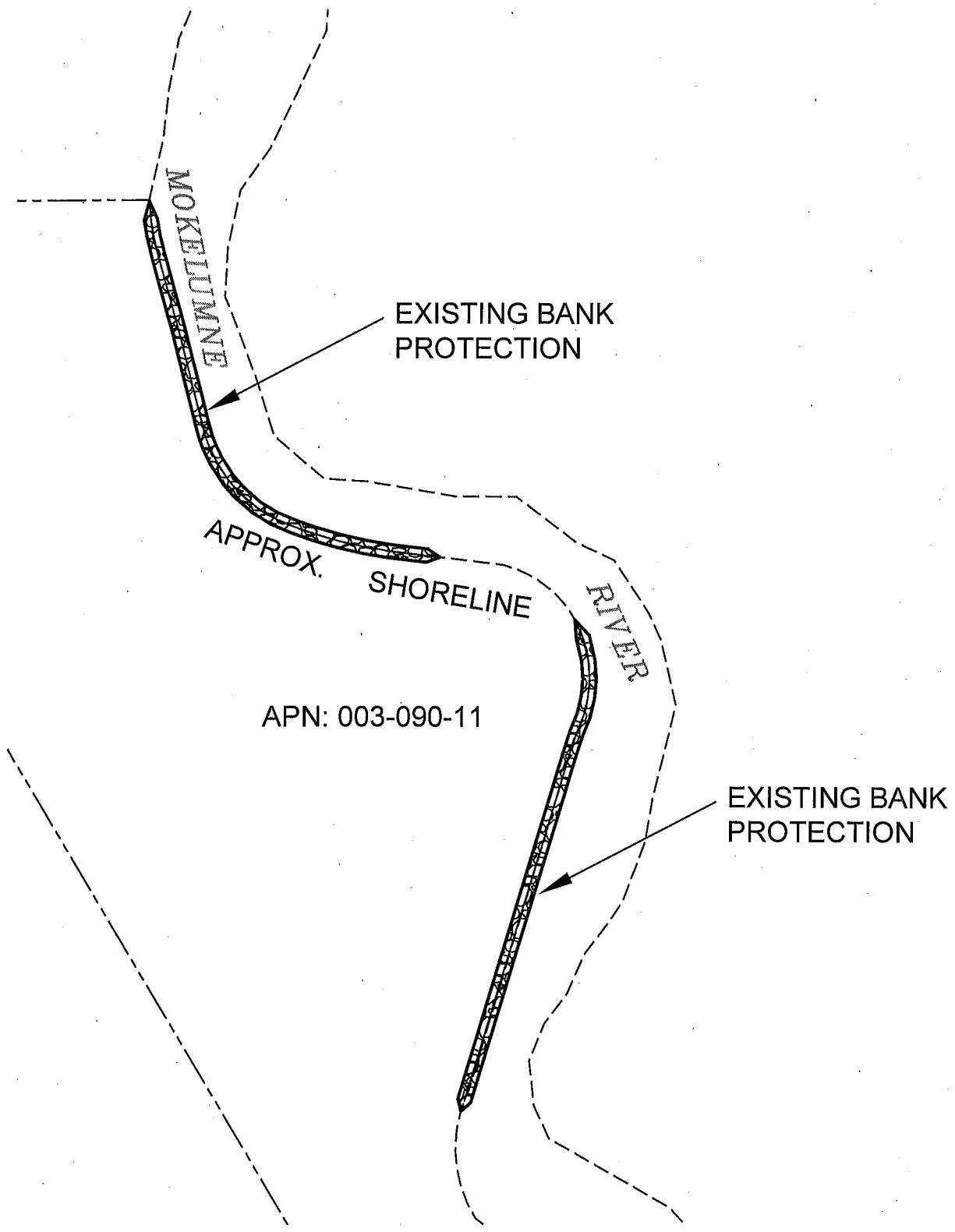


EXHIBIT A

Page 2 of 2

RPF 7/19/17

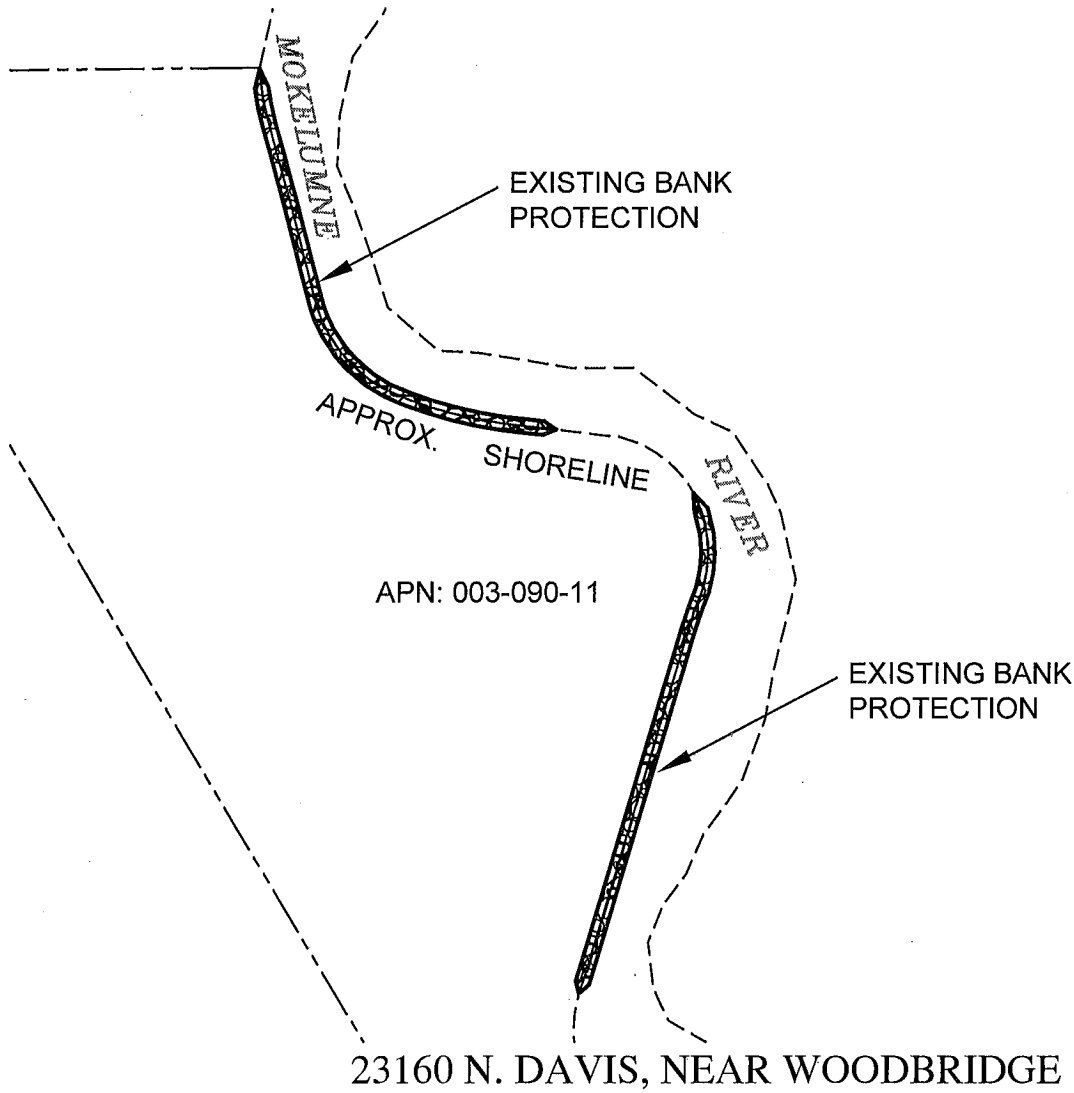
LAND DESCRIPTION PLAT
 PRC 7169.9, ROBERT & DOROTHY
 PANELLA, CO-TRUSTEES
 SAN JOAQUIN COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



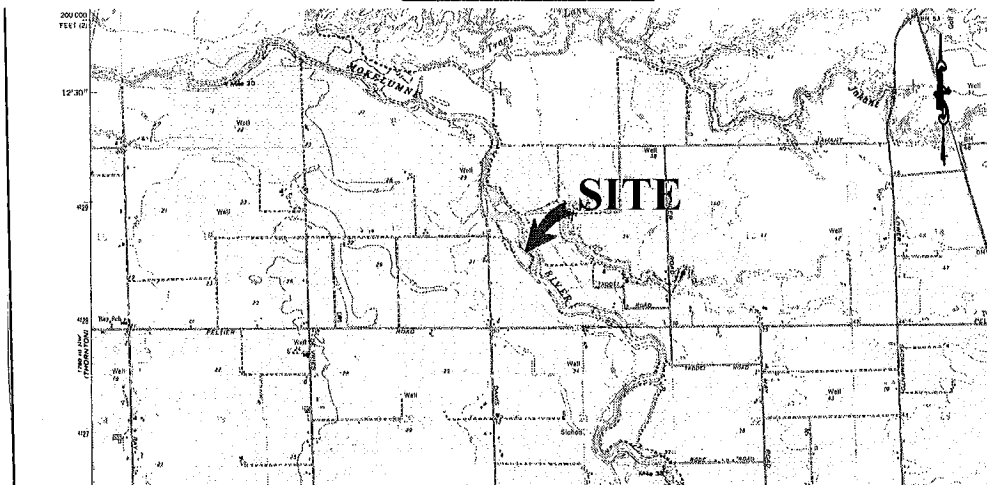
NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7169.9
 ROBERT AND DOROTHY
 PANELLA, CO-TRUSTEES
 APN 003-090-11
 GENERAL LEASE -
 PROTECTIVE STRUCTURES USE
 SAN JOAQUIN COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

RPF 07/19/17